
HOUSE BILL No. 1582

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-10-9.5; IC 7.1-1-2-3; IC 7.1-3; IC 7.1-5.1.

Synopsis: Local prohibition of sale of alcoholic beverages. Allows a local public question to be placed on the ballot concerning whether a township board shall adopt a resolution prohibiting the Indiana alcoholic beverage commission from: (1) issuing new Indiana alcoholic beverage permits to premises within the township; or (2) transferring alcoholic beverage permits from premises located outside the township to premises located within the township. Provides that the resolution does not affect an alcoholic beverage permit issued to premises within the township before the date the resolution was adopted. Requires the Indiana alcoholic beverage commission to suspend processing an application for a new permit for or transfer of a permit to premises located within the township if the commission receives notice that a local public question has been certified. Requires the township board to adopt an ordinance prohibiting the commission from issuing a new permit or transferring an existing permit to a premises located in the township if a majority of the registered voters voting in the election vote in favor of the local public question.

Effective: July 1, 2001.

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January 17, 2001, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1582

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-10-9.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]:

4 **Chapter 9.5. Local Public Question Concerning Prohibiting the**
5 **Sale of Alcoholic Beverages**

6 **Sec. 1. This chapter applies to a township.**

7 **Sec. 2. The procedure for placing a local public question on the**
8 **ballot to require the legislative body to:**

9 **(1) adopt a resolution prohibiting the Indiana alcoholic**
10 **beverage commission from:**

11 **(A) issuing new alcoholic beverage permits to premises**
12 **located within the boundaries of a township; or**

13 **(B) transferring alcoholic beverage permits from premises**
14 **located outside the township to premises located within the**
15 **boundaries of the township; or**

16 **(2) repeal a resolution described in subdivision (1);**
17 **is set forth in IC 7.1-5.1.**



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SECTION 2. IC 7.1-1-2-3, AS AMENDED BY P.L.177-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The provisions of this title shall not prohibit the following:

(1) The manufacture, sale, possession, transportation, or use of vinegar.

(2) The sale or transportation of sacramental wine to a minister, priest, or rabbi for a religious purpose.

(3) The manufacture, purchase, possession, transportation, or distribution of sacramental wine for a religious purpose by a minister, priest, or rabbi.

(4) The manufacture of wine or beer that is not offered for sale and is used only for the following purposes:

(A) Personal or family use.

(B) Use in the residence of the person who manufactures the wine or beer.

(C) Use at organized affairs or exhibitions.

(D) Technical or sensory evaluations.

(E) Wine or beer educational seminars.

(F) Wine or beer competitions, including contests, tastings, or judgments.

(5) The manufacture, sale, possession, transportation, or use of industrial alcohol.

(6) Alcoholic beverages held, served, or consumed on airline flights.

(b) The transportation and the possession of alcoholic beverages described in subsection (a)(4) shall not be prohibited but shall be subject to the applicable provisions of this title.

(c) **Except as provided in IC 7.1-5.1**, the manufacture, sale, possession, transportation, or use of alcohol or alcoholic beverages, or a preparation containing alcohol for a medicinal, scientific, or mechanical purpose, shall not be prohibited but shall be controlled, regulated, and confined to permittees as provided in this title.

SECTION 3. IC 7.1-3-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. **Except as provided in IC 7.1-5.1**, a liquor retailer's permit may be issued under the provisions of this title for premises situated in a city having a population of at least five thousand (5,000). A city or town legislative body, or an officer of one (1) of them, shall have no power or jurisdiction to regulate the sale of, traffic in, or transportation of alcoholic beverages, or to levy a tax, fee, license fee, or to issue or require a license to be issued by it or its officer or agent in respect to

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1 alcoholic beverages.

2 SECTION 4. IC 7.1-3-9-6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. ~~Certain Local~~
4 ~~Ordinances Proscribed:~~ (a) A city or town shall not enact an ordinance
5 which in any way, directly or indirectly, regulates, restricts, enlarges,
6 or limits the operation or business of the holder of a liquor retailer's
7 permit as provided in this title. A city or town shall not enact an
8 ordinance covering any other business or place of business for the
9 conduct of it in such a way as to prevent or inhibit the holder of a liquor
10 retailer's permit from being qualified to obtain or continue to hold the
11 permit, or operate to interfere with or prevent the exercise of the
12 permittee's privileges under the permit.

13 (b) **A township may adopt a resolution under IC 7.1-5.1**
14 **prohibiting the issuance of permits and transfer of permits to**
15 **premises within the township.**

16 SECTION 5. IC 7.1-3-20-11.5 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11.5. (a) **Except as**
18 **provided in IC 7.1-5.1**, the commission may issue a three-way permit
19 for the sale of alcoholic beverages, for on-the-licensed-premises
20 consumption only, to the proprietor of a restaurant which is located in
21 a city or town that has a population of less than twenty thousand
22 (20,000), if the applicant meets the following requirements:

23 (1) The establishment is the holder of a one-way or a two-way
24 permit.

25 (2) The establishment is qualified to hold a three-way permit but
26 for the provisions of IC 7.1-3-22-3.

27 (3) The applicant presents to the commission a petition bearing
28 the signatures of two hundred fifty (250) residents of the affected
29 city or town requesting the issuance of the permit to the applicant.

30 (b) A permit that is issued under this section may be transferred.

31 (c) The annual license fee for a three-way retailer's permit issued
32 under this section is the same as the fee for a three-way retailer's permit
33 issued under other provisions of this chapter. A person who holds a
34 three-way retailer's permit under this section is not required to pay an
35 annual license fee for any one-way or two-way retailer's permit that the
36 person must hold to maintain eligibility for a three-way retailer's permit
37 under this section.

38 SECTION 6. IC 7.1-3-21-2.5 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2001]: **Sec. 2.5. (a) This section applies to a**
41 **township that has adopted a resolution prohibiting the issuance or**
42 **transfer of a permit under IC 7.1-5.1.**



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(b) Except as provided in IC 7.1-5.1-5, the commission may not:

(1) issue a permit to premises located within the boundaries of the township; or

(2) transfer a permit to premises located within the boundaries of the township from premises located outside the boundaries of the township.

SECTION 7. IC 7.1-5.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

ARTICLE 5.1. RESOLUTION PROHIBITING THE SALE OF ALCOHOLIC BEVERAGES

Chapter 1. Applicability

Sec. 1. This article applies to a township.

Chapter 2. Definitions

Sec. 1. "Legislative body" has the meaning set forth in IC 36-1-2-9(6).

Sec. 2. "Township" has the meaning set forth in IC 36-1-2-22.

Chapter 3. General Provisions

Sec. 1. As set forth in this article, a township may adopt a resolution to prohibit the commission from issuing and transferring permits to premises located within the boundaries of the township.

Chapter 4. Restriction of Alcoholic Beverage Permits

Sec. 1. Except as provided in IC 7.1-5.1-5, if a resolution is adopted under this article, the commission may not:

(1) issue any new permits for premises; or

(2) transfer any permits from premises located outside the boundaries of the township to premises;

located within the boundaries of the township.

Chapter 5. Existing Permits

Sec. 1. A resolution adopted under this article must not restrict:

(1) the transfer, sale, assignment, or renewal of a permit; or

(2) any other right or privilege granted to the holder of a permit;

that was issued before the date the resolution was adopted in accordance with this title and the rules of the commission.

Chapter 6. Adoption of a Resolution

Sec. 1. (a) The legislative body of a township may adopt a resolution to submit to the registered voters of the township the local public question of whether the legislative body of the township shall adopt a resolution prohibiting the commission from:

(1) issuing new permits to premises located within the

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boundaries of the township; or

(2) transferring permits from premises located outside the township to premises located within the boundaries of the township.

(b) The form of the local public question in the resolution must comply with IC 7.1-5.1-8-2.

Sec. 2. If the legislative body adopts the resolution:

(1) the legislative body shall file a copy of the resolution with the clerk of the circuit court for each county in which the township is located;

(2) the circuit court clerk shall certify the resolution to the county election board;

(3) the circuit court clerk shall send notice to the commission that the clerk certified the resolution to the county election board; and

(4) the county election board shall place on the ballot the local public question contained in the resolution as set forth in IC 7.1-5.1-8-1.

Chapter 7. Voters' Petition

Sec. 1. (a) The registered voters of a township may petition the county election board to place a local public question on the ballot concerning whether the township shall adopt a resolution prohibiting the commission from:

(1) issuing new permits to premises located within the boundaries of the township; or

(2) transferring permits from premises located outside the township to premises located within the township boundaries.

(b) The form of the local public question in the petition must comply with IC 7.1-5.1-8-2.

Sec. 2. (a) The petition must be filed with the circuit court clerk in the county where the township is primarily located.

(b) The petition must be signed by at least the number of registered voters of the township that is required to place a candidate on the ballot under IC 3-8-6-3.

(c) Each petition must contain or have attached to the document throughout the document's circulation the full text of the local public question.

Sec. 3. Except as provided in this chapter, the petition must meet, in addition to the requirements of this article, the requirements of IC 3-10-9.

Sec. 4. Each person who circulates a petition must execute an affidavit stating:

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- (1) that the affiant personally circulated the document;
- (2) the number of signatures on the document;
- (3) that all the signatures were affixed in the affiant's presence; and
- (4) that the affiant believes the signatures to be genuine signatures of the persons whose names they purport to be.

The affidavit must be attached to the petition at the time the petition is filed with the circuit court clerk.

Sec. 5. Not later than thirty (30) days after the date a petition is filed with the circuit court clerk under this chapter, the circuit court clerk shall:

- (1) examine the signatures on the petition;
- (2) issue a certificate declaring that the petition is sufficient or insufficient;
- (3) send a copy of the certificate to the township legislative body by registered or certified mail;
- (4) publish, in at least one (1) newspaper of general circulation in the township, a notice of the filing of the petition and the certificate issued by the circuit court clerk as to the sufficiency or insufficiency of the petition;
- (5) if the clerk declares that the petition is sufficient, certify the local public question to the county election board; and
- (6) send notice to the commission that the clerk certified the local public question to the county election board.

Chapter 8. Local Public Question

Sec. 1. (a) If a county election board receives a local public question certified under IC 7.1-5.1-6-2 or IC 7.1-5.1-7-5, the county election board shall place the local public question on the ballot at the next general election or primary election for which the question can be certified in accordance with IC 3-10-9-3.

(b) The county election board shall place the local public question on the ballot in the form prescribed by IC 3-10-9-4.

Sec. 2. The local public question must state the following:

"Shall (insert the name of the township) adopt a resolution prohibiting the Indiana Alcoholic Beverage Commission from issuing new alcoholic beverage permits to premises within (insert the name of the township) or transferring alcoholic beverage permits from outside the township to premises within (insert the name of the township)?"

Sec. 3. (a) If a majority of the registered voters who vote on the local public question vote in favor of the local public question, not later than thirty (30) days after the date the county election board

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certifies the results to the township legislative body, the legislative body shall adopt a resolution that prohibits the commission from issuing new permits to premises within the township or transferring permits from premises outside the township to premises located within the boundaries of the township.

(b) The issuance and transfer of permits shall be restricted as set forth in this title as of the date the resolution is adopted.

Chapter 9. Repeal of a Resolution

Sec. 1. Except as provided in sections 2 and 3 of this chapter, the procedure for repealing a resolution is the same as the procedure for adopting a resolution under this article.

Sec. 2. If a local public question is certified for repeal of the resolution, the county election board shall place the local public question on the ballot as set forth in IC 7.1-5.1-8. The local public question must state the following:

"Shall (insert the name of the township) repeal the resolution that prohibits the Indiana Alcoholic Beverage Commission from issuing new alcoholic beverage permits to premises within (insert name of township) or transferring alcoholic beverage permits from outside the township to premises located within the boundaries of (insert the name of the township)?"

Sec. 3. If a majority of the registered voters who vote on the local public question vote in favor of repealing the resolution prohibiting the commission from issuing new permits to premises within the township or transferring permits from premises outside the township to premises located within the boundaries of the township, the legislative body shall repeal the resolution not later than thirty (30) days after the date the county election board certifies the results to the township legislative body.

Chapter 10. Successive Local Public Question

Sec. 1. This chapter applies to a township that has a local public question under this article voted on by the voters of the township.

Sec. 2. If a local public question under this article concerning the township is rejected by a majority of the voters voting on the local public question, another local public question under this article concerning the township may not be placed on a ballot for an election for at least two (2) years after the date of the preceding election at which the local public question was rejected.

Chapter 11. Suspension of Pending Applications

Sec. 1. Upon receiving notice from the circuit court clerk under IC 7.1-5.1-6-2(3) or IC 7.1-5.1-7-5(6), the commission shall suspend

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1 processing an application for:
2 (1) a new permit for premises located within the township that
3 is the subject of the local public question; and
4 (2) transfer of a permit from premises located outside the
5 township that is the subject of the local public question to
6 premises located within the boundaries of the township that
7 is the subject of the local public question.
8 Sec. 2. If a majority of the voters voting on the local public
9 question vote against prohibiting the commission from issuing new
10 permits or transferring permits to premises located within the
11 township, the commission shall resume processing an application
12 under this chapter.

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